

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

FILED

SEP 10 2012

Phil Lombardi, Clerk
U.S. DISTRICT COURT

1. SARA BROWN, Personal Representative)
of the Estate of Darnell Ramon Brown,)
Deceased, and SARA BROWN,)
individually,)

Plaintiffs,)

v.)

2. PRIMERICA LIFE INSURANCE)
COMPANY, a foreign corporation)

Defendant.)

12 CV - 508 JHP PJC
Case No. _____

Tulsa County Case No. CJ-2012-4259

NOTICE OF REMOVAL

Defendant Primerica Life Insurance Company ("Primerica") files this notice of removal of this action from the District Court of Tulsa County, Oklahoma pursuant to 28 U.S.C. § 1446. As grounds for removal, Primerica states:

1. On August 13, 2012, Plaintiff filed a Petition in the District Court in and for Tulsa County, Oklahoma, captioned *Sara Brown v. Primerica Life Insurance Company*, Case No. CJ-2012-4259 (the "State Court Action").

2. A true and correct copy of the docket sheet in the State Court Action is attached hereto as Exhibit 1. True and correct copies of the Summons and Petition that were served on Primerica through the office of the Oklahoma Insurance Commissioner on or about August 21, 2012 are attached hereto as Exhibits 2 and 3. A true and correct copy of the return of service filed in the State Court Action is attached as Exhibit 4.

3. This Court has original jurisdiction over this action under 28 U.S.C. § 1332 in that there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000, exclusive of interest and costs. This action is therefore removable to this Court pursuant to 28 U.S.C. § 1441.

4. Complete diversity exists because Plaintiff is a citizen and resident of Tulsa County, Oklahoma while Primerica is a Massachusetts corporation with its principal place of business in Duluth, Georgia. Therefore, Plaintiff is a citizen of Oklahoma and Primerica is a citizen of Massachusetts and Georgia for removal purposes.

5. The amount in controversy as set forth in Plaintiff's Petition exceeds the sum of \$75,000, exclusive of interest and costs. Plaintiffs seek to recover insurance benefits in the amount of \$250,000, as well as punitive damages. *See* Petition (Exhibit 3) ¶¶ 6 and 10-11.

6. This Notice of Removal is filed within thirty (30) days after receipt by Primerica of the Petition and Summons and is therefore timely filed pursuant to 28 U.S.C. § 1446(b).

7. Written notice of the filing of this Notice of Removal will be given promptly to counsel for Plaintiff, and a copy of the Notice of Removal will be filed with the Clerk of the District Court of Tulsa County, Oklahoma, as provided by 28 U.S.C. § 1446(d).

WHEREFORE, Primerica removes this action to this Court and invokes this Court's jurisdiction.

Dated September 10, 2012.

Respectfully submitted,

 for

s/Lisa T. Silvestri

Lisa T. Silvestri, OBA No. 19239

Erin K. Dailey, OBA No. 20189

GABLEGOTWALS

1100 ONEOK Plaza

100 West Fifth Street

Tulsa, Oklahoma 74103-4217

Telephone: (918) 595-4800

Facsimile: (918) 595-4990

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2012 a true and correct copy of the foregoing has been served on all counsel of record, as listed below, by first class mail.

Tom Sullivent
Sidney A. Martin II
Sullivent Law Firm
4325 E. 51st Street, Suite 100
Tulsa, OK 74135

s/Lisa T. Silvestri



EXHIBIT 1



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The information on this page is NOT an official record. Do not rely on the correctness or completeness of this information. Verify all information with the official record keeper. The information contained in this report is provided in compliance with the Oklahoma Open Records Act, 51 O.S. 24A.1. Use of this information is governed by this act, as well as other applicable state and federal laws.

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY, OKLAHOMA

SARA BROWN, Plaintiff, and ESTATE OF DARNELL RAMON BROWN, DECEASED, Plaintiff, v. PRIMERICA LIFE INSURANCE COMPANY, Defendant.	No. CJ-2012-4259 (Civil relief more than \$10,000: BREACH OF AGREEMENT - CONTRACT) Filed: 08/13/2012 Judge: Barcus, Mark
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Parties

BROWN, SARA , Plaintiff
ESTATE OF DARNELL RAMON BROWN , Plaintiff
PRIMERICA LIFE INSURANCE COMPANY , Defendant

Attorneys

Attorney

SULLIVENT, THOMAS JACKSON(Bar # 17147)
SULLIVENT LAW FIRM
4325 East 51st Street
#100
TULSA, OK 74135

Represented Parties

ESTATE OF DARNELL RAMON BROWN,
BROWN, SARA

Events

Event	Party	Docket	Reporter
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Issues

For cases filed before 1/1/2000, ancillary issues may not appear except in the docket.

Issue # 1.

Issue: BREACH OF AGREEMENT - CONTRACT
(CONTRACT)

Filed by: BROWN, SARA

Filed Date: 08/13/2012

Party Name:

Disposition Information:

Defendant: PRIMERICA LIFE INSURANCE
COMPANY

Pending.

Issue # 2.

Issue: BREACH OF AGREEMENT - CONTRACT
(CONTRACT)

Filed by: ESTATE OF DARNELL RAMON BROWN

Filed Date: 08/13/2012

Party Name:

Disposition Information:

Defendant: PRIMERICA LIFE INSURANCE
COMPANY

Pending.

Exhibit "1"

Issue # 3.

Issue: BAD FAITH INSURER LIABILITY (INSURE)

Filed by: BROWN, SARA

Filed Date: 08/13/2012

Party Name:

Disposition Information:

Defendant: PRIMERICA LIFE INSURANCE
COMPANY

Pending.

Issue # 4.

Issue: BAD FAITH INSURER LIABILITY (INSURE)

Filed by: ESTATE OF DARNELL RAMON BROWN

Filed Date: 08/13/2012

Party Name:

Disposition Information:


Defendant: PRIMERICA LIFE INSURANCE
COMPANY

Pending.

Docket

Date	Code	Count	Party	Serial #	Entry Date		
08-13-2012	TEXT	1		82558902	Aug 13 2012 3:36:09:827PM	-	\$ 0.00
			CIVIL RELIEF MORE THAN \$10,000 INITIAL FILING.				
08-13-2012	CONTRACT	-		82558904	Aug 13 2012 3:36:09:877PM	Realized	\$ 0.00
			BREACH OF AGREEMENT - CONTRACT				
08-13-2012	DMFE	-		82558905	Aug 13 2012 3:36:09:887PM	Realized	\$ 2.00
			DISPUTE MEDIATION FEE(\$ 2.00)				
08-13-2012	PFE1	-		82558906	Aug 13 2012 4:16:12:827PM	Realized	\$ 163.00
			PETITION(\$ 163.00)				
			 <u>Document Available (#1019100707)</u>				
08-13-2012	PFE7	-		82558907	Aug 13 2012 3:36:09:887PM	Realized	\$ 6.00
			LAW LIBRARY FEE(\$ 6.00)				
08-13-2012	OCISR	-		82558908	Aug 13 2012 3:36:09:887PM	Realized	\$ 25.00
			OKLAHOMA COURT INFORMATION SYSTEM REVOLVING FUND(\$ 25.00)				
08-13-2012	CCADMIN02	-		82558909	Aug 13 2012 3:36:09:887PM	Realized	\$ 0.20
			COURT CLERK ADMINISTRATIVE FEE ON \$2 COLLECTIONS(\$ 0.20)				
08-13-2012	OCJC	-		82558910	Aug 13 2012 3:36:09:887PM	Realized	\$ 2.00
			OKLAHOMA COUNCIL ON JUDICIAL COMPLAINTS REVOLVING FUND(\$ 2.00)				
08-13-2012	OCASA	-		82558911	Aug 13 2012 3:36:09:887PM	Realized	\$ 5.00
			OKLAHOMA COURT APPOINTED SPECIAL ADVOCATES(\$ 5.00)				
08-13-2012	CCADMIN04	-		82558912	Aug 13 2012 3:36:09:887PM	Realized	\$ 0.50

COURT CLERK ADMINISTRATIVE FEE ON COLLECTIONS(\$ 0.50)

08-13-2012 LTF	-	82558913	Aug 13 2012 3:36:10:007PM	Realized	\$ 10.00
LENGTHY TRIAL FUND(\$ 10.00)					
08-13-2012 SMF	-	82558914	Aug 13 2012 3:36:10:067PM	Realized	\$ 5.00
SUMMONS FEE (CLERKS FEE)(\$ 5.00)					
08-13-2012 SMIP	-	82558915	Aug 13 2012 3:36:10:107PM	Realized	\$ 0.00
SUMMONS ISSUED - PRIVATE PROCESS SERVER					
08-13-2012 TEXT	-	82558903	Aug 13 2012 3:36:09:837PM	-	\$ 0.00
OCIS HAS AUTOMATICALLY ASSIGNED JUDGE BARCUS, MARK TO THIS CASE.					
08-13-2012 ACCOUNT	-	82558936	Aug 13 2012 3:36:42:427PM	-	\$ 0.00
RECEIPT # 2012-2418691 ON 08/13/2012. PAYOR:SULLIVENT LAW FIRM TOTAL AMOUNT PAID: \$218.70. LINE ITEMS: CJ-2012-4259: \$168.00 ON AC01 CLERK FEES. CJ-2012-4259: \$6.00 ON AC23 LAW LIBRARY FEE. CJ-2012-4259: \$0.70 ON AC31 COURT CLERK REVOLVING FUND. CJ-2012-4259: \$5.00 ON AC58 OKLAHOMA COURT APPOINTED SPECIAL ADVOCATES. CJ-2012-4259: \$2.00 ON AC59 OKLAHOMA COUNCIL ON JUDICIAL COMPLAINTS REVOLVING FUND. CJ-2012-4259: \$2.00 ON AC64 DISPUTE MEDIATION FEES. CJ-2012-4259: \$25.00 ON AC79 OCIS REVOLVING FUND. CJ-2012-4259: \$10.00 ON AC81 LENGTHY TRIAL FUND.					
08-24-2012 S	-	PRIMERICA LIFE INSURANCE COMPANY 82691639	Aug 27 2012 9:06:30:427AM	-	\$ 0.00
PARTY HAS BEEN SUCCESSFULLY SERVED. SUMMONS SERVED FOR PRIMERICA LIFE INS CO, CERTIFIED MAIL, SIGNED SABRINA, ON 8-22-12,  <u>Document Available (#1019387987)</u>					

Report Generated by The Oklahoma Court Information System at September 10, 2012 10:27 AM

End of Transmission.

EXHIBIT 2

ORIGINAL SUMMONS

4912

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA

RECEIVED
OKLAHOMA INSURANCE DEPARTMENT
AUG 21 2012
Legal Division

SARA BROWN, Personal Representative
of the Estate of Darnell Ramon Brown,
Deceased, and SARA BROWN individual

Plaintiff,

v.

PRIMERICA LIFE INSURANCE COMPANY,
a foreign corporation,

Defendant.

CJ-2012-04259

Case No.

Judge

AUG 28 2012

SERVICE BY CERTIFIED MAIL

Primerica Life Insurance Company
c/o Oklahoma Insurance Commissioner
Five Corporate Plaza
3625 NW 56th, Suite 100
Oklahoma City, OK 73112-4511

TO THE ABOVE NAMED DEFENDANT:

You have been sued by the above-named Plaintiff, and you are directed to file a written answer to the attached petition in the court at the above address within twenty (20) days after service of this summons upon you, exclusive of the day of service. Within the same time, a copy of your answer must be delivered or mailed to the attorney for the Plaintiff. Unless you answer the petition within the time stated, judgment will be rendered against you with costs of the action.

Issued this 13 day of 8, 2012.

COURT CLERK NAME, Court Clerk

By [Signature], Deputy Court Clerk

(Seal)

This summons and order was served on _____ (date of service).

(Signature of Person Serving Summons)

Exhibit "2"

Tom Sullivent, OBA# 17147
Sid Martin, OBA# 10892
SULLIVENT LAW FIRM
4325 E. 51st Street, Suite 100
Tulsa, OK 74135
Telephone: (918) 295-8300
Attorney for Plaintiff

Sid Martin, OBA# 10892

**YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER
CONNECTED WITH THIS SUIT OR YOUR ANSWER. SUCH ATTORNEY
SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE
FILED WITHIN THE TIME LIMIT STATED IN THE SUMMONS.**

EXHIBIT 3

DISTRICT COURT
IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA

AUG 13 2012

SARA BROWN, Personal Representative)
of the Estate of Darnell Ramon Brown,)
Deceased, and SARA BROWN individually,)
Plaintiff,)

SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

v.

PRIMERICA LIFE INSURANCE COMPANY,)
a foreign corporation,)
Defendant.)

Case No.

CJ-2012-04259

Judge

E. MARK BARCUS

PETITION

COMES NOW the Plaintiff, Sara Brown, Personal Representative of the Estate of Darnell Ramon Brown, Deceased, and Sara Brown, individually, and for her cause of action against the Defendant, Primerica Life Insurance Company, alleges and states as follows:

BACKGROUND

1. The Plaintiff, Sara Brown, was appointed Personal Representative of the Estate of her deceased husband, Darnell Ramon Brown, a resident of Tulsa County, Oklahoma, in Case No. PB-2011-754, Tulsa County District Court.
2. The Plaintiff, Sara Brown, is the beneficiary of a life insurance policy, No. 048904311, issued to Darnell Ramon Brown by the Defendant, Primerica Life Insurance Company, with the effective date of December 10, 2010.
3. The Defendant, Primerica Life Insurance Company, is a foreign corporation headquartered in Duluth, Georgia, and licensed to do business in Oklahoma.

Exhibit "3"

1253

4. All events material hereto transpired in Tulsa County, Oklahoma. Jurisdiction and venue are proper.

5. Darnell Ramon Brown departed this life on October 14, 2011. The aforementioned policy was in full force and effect at the time of his death.

6. Demand has been made on the Defendant for the \$250,000 in life insurance benefits due under the policy. Nevertheless, the Defendant denied the claim, rescinded the policy, and refunded the premiums paid.

7. The Defendant alleges that the application for insurance dated November 17, 2010 contained a false statement concerning a prior felony conviction for possession of a firearm and alleges that if said conviction been revealed, the policy would not have been issued.

8. The question at issue, 2d, states as follows:

2. In the past 10 years, has any person named in this application:

Received professional counseling or medical treatment due to the use of alcohol or drugs, used illegal or illegally obtained drugs; been convicted of drug or alcohol related charges; been convicted of a felony; or been incarcerated for any felony?

9. The language of the application is ambiguous and could be understood by the average person to be inquiring only concerning a felony which is drug or alcohol related. The decedent did not intend to deceive the Defendant, nor in denying the claim did the Defendant so allege. Moreover, the questions in the application were asked by an agent of the Defendant who entered the answers on his electronic device, and the

CJ-2012-04259

decedent entered his signature on the device without being able to review the questions and answers.

FIRST CLAIM FOR RELIEF – BREACH OF CONTRACT

Paragraphs 1 through 9 are incorporated as if fully set forth.

10. The Defendant breached the contract of insurance by failing to pay the benefits due under the policy, and by unlawfully rescinding the policy.

WHEREFORE, Plaintiff prays for damages in the amount of \$250,000, a reasonable attorney's fee, costs, and such other and further relief as the Court may deem just and proper.

SECOND CLAIM FOR RELIEF – BAD FAITH

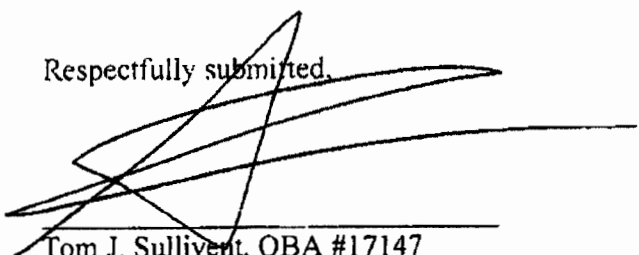
Paragraphs 1 through 10 are incorporated as if fully set forth.

11. The Defendant breached the covenant of good faith and fair dealing by refusing to pay benefits due under the policy without just cause. The Defendant unreasonably, and in bad faith, withheld payment of Plaintiff's claim.

WHEREFORE, Plaintiffs prays for actual and punitive damages in an amount in excess of \$75,000, her costs, and such other and further relief as the Court may deem just and proper.

**ATTORNEY'S LIEN CLAIMED
JURY TRIAL DEMANDED**

Respectfully submitted,



Tom J. Sullivan, OBA #17147
Sidney A. Martin II, OBA #10892
4325 E. 51st Street, Suite 100
Tulsa, Oklahoma 74135
Telephone: 918-295-8300
Facsimile: 918-295-8302
Attorneys for Plaintiff



JOHN D. DOAK
Insurance Commissioner
Oklahoma Insurance Department
5 Corporate Plaza
3625 NW 56th Street, Suite 100
Oklahoma City, OK 73112-4511

CERTIFIED MAIL



7006 1630 0003 9411 9563



U.S.
ZIP
02
000

Stanton J. Shapiro
3120 Breckinridge Blvd.
Duluth, GA 30099

30099490020

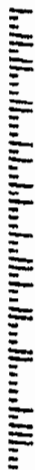


EXHIBIT 4

**ORIGINAL SUMMONS****IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA**

SARA BROWN, Personal Representative
of the Estate of Darnell Ramon Brown,
Deceased, and SARA BROWN individually,

Plaintiff,

v.

PRIMERICA LIFE INSURANCE COMPANY,
a foreign corporation,

Defendant.

Case No.

Judge

03-2012-04259

E. MARK BARTON

SERVICE BY CERTIFIED MAIL

Primerica Life Insurance Company
c/o Oklahoma Insurance Commissioner
Five Corporate Plaza
3625 NW 56th, Suite 100
Oklahoma City, OK 73112-4511

**DISTRICT COURT
FILED**

AUG 24 2012

DALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

TO THE ABOVE NAMED DEFENDANT:

You have been sued by the above-named Plaintiff, and you are directed to file a written answer to the attached petition in the court at the above address within twenty (20) days after service of this summons upon you, exclusive of the day of service. Within the same time, a copy of your answer must be delivered or mailed to the attorney for the Plaintiff. Unless you answer the petition within the time stated, judgment will be rendered against you with costs of the action.

Issued this 13 day of 8, 2012.

COURT CLERK NAME, Court Clerk

By Reduica Demps, Deputy Court Clerk

(Seal)

This summons and order was served on Aug 18, 2012 (date of service)

(Signature of Person Serving Summons)

Exhibit "4"

Tom Sullivent, OBA# 17147
Sid Martin, OBA# 10892
SULLIVENT LAW FIRM
4325 E. 51st Street, Suite 100
Tulsa, OK 74135
Telephone: (918) 295-8300
Attorney for Plaintiff

CJ-2012-04259

**YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER
CONNECTED WITH THIS SUIT OR YOUR ANSWER. SUCH ATTORNEY
SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE
FILED WITHIN THE TIME LIMIT STATED IN THE SUMMONS.**

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature X</p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Primerica Life Ins Co c/o Oklahoma Ins Commissioner Five Corporate Plaza 3625 NW 56th, Suite 100 Oklahoma City, OK 73112-4511</p> <p><i>Oklahoma City OK 73112-4511</i></p>		<p>B. Received by (Printed Name) OKLAHOMA INSURANCE DEPARTMENT</p> <p>C. Date of Delivery AUG 22 2012</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p><i>Sabrina S. S. S.</i></p>	
<p>2. Article Number (Transfer from service label)</p>		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>PS Form 3811, February 2004</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
		<p>7009 2250 0002 9690 6236</p>	

Domestic Return Receipt

102595-02-M-1540